Supreme Court, U.S.
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CASE NO. 85—1519

In The Supreme Court of the United States

OCTOBER TERM, 1985

THOMAS HOOPER, ET AL.,

Petitioners,

v.

WILLIAM DONTA, JR.,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

SUPPLEMENTAL BRIEF IN SUPPORT OF THE PETITION FOR WRIT OF CERTIORARI

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TABLE OF AUTHORITIES

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Cases:

Arizona v. Hicks,
Case No. 85-1027, *cert. granted*
54 U.S.L.W. 3662 (April 7, 1986) 1

Arizona v. Hicks,
707 P. 2d 331 (Ct. App. 1985) 1

SUPPLEMENTAL ARGUMENT IN SUPPORT OF GRANTING THE WRIT

After the petition for writ of certiorari was filed in this case, the Court granted the petition for writ of certiorari in *Arizona v. Hicks*, Case No. 85-1027, *cert. granted* 54 U.S.L.W. 3662 (April 7, 1986). *Hicks* presents a plain view search question identical in concept to one of the questions presented in this case. The issue in *Hicks* is:

> Under plain view exception to Fourth Amendment, can police seize identification numbers from evidence inadvertently found in course of conducting lawful search, where they can point to particularized, articulable facts and reasonable inferences drawn therefrom leading them to believe that evidence is incriminating. 54 U.S.L.W. 3503.

In *Hicks*, police officers legally inside an apartment without a warrant but under exigent circumstances recorded the serial numbers of expensive stereo components found in the apartment. After checking the serial numbers through the NCIC computer and obtaining a report that the components had been stolen, a search warrant was obtained and the components seized. *Arizona v. Hicks*, 707 P. 2d 331 (Ct. App. 1985).

Hicks and the present case both present the question of whether law enforcement officers, lawfully on the premises of suspected illegal activity, can copy the serial numbers of suspicious items found in plain view where there is probable cause to believe the items are stolen.

The granting of the petition for writ of certiorari in *Hicks* supports granting of the petition in this case for two reasons. First, the issues are essentially identical. If the seizure in *Hicks* is upheld, the seizure in this case would also be legal. Second, the fact that *Hicks* is being reviewed demonstrates that even to this day, the law of plain view searches as it relates to copying

the serial numbers of suspected stolen property is not clearly established. Consequently, Petitioners in the present case are entitled to good faith immunity from damages.

CERTIFICATE OF SERVICE

I hereby certify that the requisite number of copies of the foregoing Supplemental Brief In Support Of The Petition For Writ Of Certiorari have been served upon Respondent William Donta, Jr., by forwarding such copies to his counsel, James H. Moore, III, Campbell, Woods, Bagley, Emerson, McNeer and Herndon, P.O. Box 1862, Ashland, Kentucky 41105, by United States Mail, postpaid, this _____ day of April, 1986. I further certify that all parties required to be served have been served.

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